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Response Under 37 C.F.R. § 1.116  
Expedited Procedure  
Examining Group 3700

PATENT  
ATTORNEY DOCKET NO.: 040894-7382

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of:	)	
	)	
Futoshi KAMEDA	)	Confirmation No.: 5113
	)	
Application No.: 10/566,583	)	Group Art Unit: 3721
	)	
Filed: January 31, 2006	)	Examiner: Lindsay M. Low
	)	
For: STAPLER HAVING A STAPLE	)	
SUPPORT SURFACE ON A PUSHER	)	

Commissioner for Patents  
Customer Window, **Mail Stop AF**  
Randolph Building  
401 Dulany Street  
Alexandria, VA 22314

Sir:

**AMENDMENT UNDER**  
**37 C.F.R. § 1.116 TRANSMITTAL FORM**

1. Transmitted herewith is an Amendment Under 37 C.F.R. § 1.116 responding to the Final Office Action dated December 19, 2008.
2. Additional papers enclosed:
  - ☐ Replacement Drawings
  - ☐ Information Disclosure Statement
  - ☐ Form PTO-1449, \_\_\_\_\_ references included
  - ☐ Citations
  - ☐ Declaration of Biological Deposit
  - ☐ Submission of "Sequence Listing", computer readable copy and/or amendment pertaining thereto for biotechnology invention containing nucleotide and/or amino acid sequence.

3. Extension of Time

The proceedings herein are for a patent application and the provisions of 37 C.F.R. § 1.136(a) apply.

☒ Applicant believe that no extension of time is required. However, this conditional petition is being made to provide for the possibility that Applicant has inadvertently overlooked the need for a petition and fee for extension of time.

☐ Applicant petitions for an extension of time, the fees for which are set out in 37 C.F.R. § 1.17(a), for the total number of months checked below:

<u>Total Months Requested</u>	<u>Fee for Extension</u>	<u>[Fee for Small Entity]</u>
<input type="checkbox"/> one month	\$ 130.00	\$ 65.00
<input type="checkbox"/> two months	\$ 490.00	\$ 245.00
<input type="checkbox"/> three months	\$ 1,110.00	\$ 555.00
<input type="checkbox"/> four months	\$ 1,730.00	\$ 865.00

Extension of time fee due with this request: \$\_\_\_\_\_

If an additional extension of time is required, please consider this a Petition therefor.

☐ An extension for \_\_\_\_\_ months has already been secured and the fee paid therefor of \$\_\_\_\_\_ is deducted from the total fee due for the total months of extension now requested.

4. Constructive Petition

☒ EXCEPT for issue fees payable under 37 C.F.R. § 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. §§ 1.16 and 1.17 which may be required, including any required extension of time fees, or credit any overpayment to Deposit Account 50-0310. This paragraph is intended to be a CONSTRUCTIVE PETITION FOR EXTENSION OF TIME in accordance with 37 C.F.R. § 1.136(a)(3).

5. Fee Calculation (37 C.F.R. §1.16)

CLAIMS AS AMENDED						
	Claims Remaining After Amendment		Highest No. Previously Paid	Present Extra	at Rate of	Total Fees
Total Claims (37 C.F.R. §1.16(c))	6	minus	20	0	x \$52 each=	+ \$
Independent Claims (37 C.F.R. §1.16(b))	2	minus	3	0	x \$220 each=	+ \$
<input type="checkbox"/> First presentation of Multiple dependent claim(s)					\$390.00	+ \$
SUB-TOTAL =						\$
Reduction by ½ for filing by a small entity						- \$
TOTAL FEE =						\$

6. Fee Payment

- ☒ No fee is to be paid at this time.
- ☐ The Commissioner is hereby authorized to charge \_\_\_\_\_ for \_\_\_\_\_ to Deposit Account 50-0310.
- ☒ The Commissioner is hereby authorized to charge any additional fees which may be required, including fees due under 37 C.F.R. §§ 1.16 and 1.17, or credit any overpayment to Deposit Account 50-0310.

Respectfully submitted,

**MORGAN, LEWIS & BOCKIUS LLP**

By: \_\_\_\_\_

David E. Connor  
Registration No. 59,868

Dated: March 18, 2009

**CUSTOMER NO. 009629**  
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Sir:

**AMENDMENT UNDER 37 C.F.R. § 1.116**

In response to the Final Office Action dated December 19, 2008, and pursuant to 37 C.F.R. § 1.116, the period of response to which extending through March 19, 2009, entry of the following Amendment is respectfully requested to place the application in clear condition for allowance or, alternatively, in better form for appeal.